

JUDGE SAND

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANDREW B. STROUD and SCARLETT P.
STROUD,

10-cv-8131

Plaintiffs,

v.

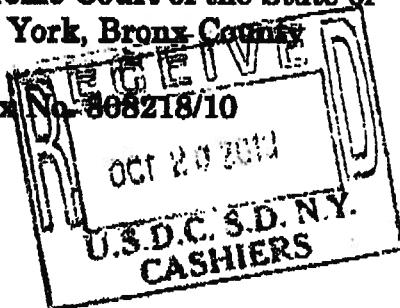
LISA S. KELLY and ROB KELLY,

Defendants.

Removed from:

Supreme Court of the State of
New York, Bronx County

Index No. 308218/10



NOTICE OF REMOVAL

Pursuant to 28 U.S.C. sections 1332 and 1441, Defendants Lisa S. Kelly and Rob Kelly, by their undersigned attorneys Shukat Arrow Hafer Weber & Herbsman LLP, hereby remove the above-captioned civil action, and all claims and causes of action therein, from the Supreme Court of the State of New York, County of the Bronx to the United States District Court for the Southern District of New York. Defendants appear for the purpose of removal only, and for no other purpose and reserve all rights, claims and defenses of any nature whatsoever including, but not limited to, service of process, jurisdiction and venue and state as follows:

1. Lisa Simone Kelly and Rob Kelly are the Defendants in the above-entitled action.
2. The above-entitled action was commenced in the Supreme Court of the State of New York, County of the Bronx, under Index No. 308218/10 and is now pending in that court. Process was served on the Defendant Lisa Simone Kelly

on October 20, 2010. Pursuant to Rule 81.1(b) of the Local Civil Rules of the United States Courts for the Southern and Eastern Districts of New York and 28 U.S.C. section 1446(a), a true and correct copy of the summons and complaint (hereinafter the "complaint"), which is the only pleading thus far served, is attached hereto as Exhibit "A."

3. A copy of the complaint was received by Defendant Lisa Simone Kelly on October 20, 2010. Although Defendant Rob Kelly has not been served, he joins in the Notice of Removal.

4. The action is a civil action for breach of contract and the United States District Court for the Southern District of New York has jurisdiction by reason of the diversity of citizenship of the parties.

4. This action may be removed to this Court under 28 U.S.C. section 1332. Plaintiffs Andrew B. Stroud and Scarlett P. Stroud are now and at the time the state action was commenced, citizens of New York and Defendants are now and at the time the state action was commenced citizens of Florida. The Defendants reside at 888 Biscayne Boulevard #3812, Miami, Florida 33132. The matter in controversy exceeds \$75,000.00. No change of citizenship of parties has occurred since the commencement of the action. Defendants are not citizens of the state in which the action was brought.

5. A copy of all process, pleadings, and orders served upon Defendant Lisa Simone Kelly is filed with this notice. No Defendant was served prior to October 2, 2010, and this notice is being filed within thirty (30) days of service on any of the Defendants and thus is timely filed under 28 U.S.C. section

1446(b).

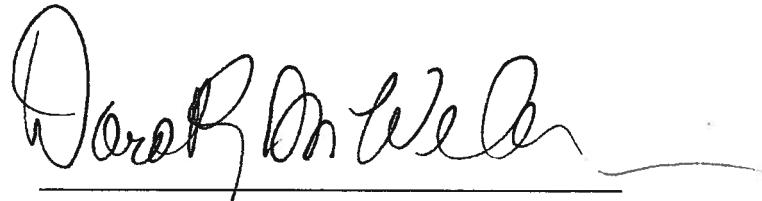
6. Defendant will promptly serve a copy of this Notice of Removal with the clerk of the Supreme Court of the State of New York, Bronx County, pursuant to 28 U.S.C. section 1446(b).

WHEREFORE, Defendants, under 28 U.S.C. sections 1332 and 1441, remove this action in its entirely from the Supreme Court of the State of New York, County of the Bronx to the United States District Court for the Southern District of New York.

Dated: October 25, 2010
New York, New York

Shukat Arrow Hafer Weber & Herbsman, LLP

By:



Dorothy M. Weber
111 West 57th Street, Suite 1120
New York, New York 10019
(212) 245-4580
dorothy@musiclaw.com

Attorneys for Defendants Lisa S. Kelly and Rob Kelly

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONXX
ANDREW B. STROUD and SCARLETT P. STROUD,

Plaintiff(s),

Index No.

Date purchased:

-against-

LISA S. KELLY and ROB KELLY,

VERIFIED SUMMONS

Basis of Venue is:

Plaintiff's Residence

Defendant(s),

X

~~10/20/10~~~~10/20/10~~~~10/20/10~~

ANDREW B. STROUD and SCARLETT P. STROUD, by their attorneys C. ROBINSON & ASSOCIATES, LLC, as and for their Verified Complaint against the defendants, upon information and belief, at all times relevant herein, alleges that:

FOR A FIRST CAUSE OF ACTION

1. Plaintiffs were and are natural persons and residents of the County of Bronx, State of New York.

2. During the period April 23, 2003 to September 8, 2005, the plaintiffs loaned and advanced to the defendants in a series of twenty-five (25) payments the total sum of two hundred sixty-two thousand, five hundred dollars (\$262,500.00) which the defendant promised to repay on demand, with interest.

3. All proceeds of the loan except one was made by personal check drawn on a New York State Bank to the defendants either in person in the State of New York or by mail sent from the State of New York.

4. One disbursement was made in cash in the State of New York.

5. The loan arose out of numerous telephone calls to Plaintiffs' home in New York and by e-mail requests.

6. Defendants have made twenty-one (21) individual payments on the loan in the total sum of one hundred, twenty-five thousand dollars (\$125,000.00).

7. All payments on the loan were made by deposit to the checking account of Plaintiffs in the New York State Bank.

8. There is due and owing from the defendants to the plaintiffs the sum of one hundred, thirty-seven, five hundred dollars (\$137,500.00) with interest from September 8, 2010.

FOR A SECOND CAUSE OF ACTION

9. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "8" above as if more fully set forth herein.

10. During the period January 8, 2004 to May 12, 2010, the plaintiff loaned and advanced to the defendants the sum of one hundred, thirty-four thousand, five hundred seventy dollars and four cents (\$134,570.04), by permitting defendants to charge various amounts on the credit cards of plaintiffs, which the defendants promised to repay on demand, with interest charged by the credit card company.

11. In addition to the amounts charged on the credit cards, the charges incurred interest charges of thirty-four thousand, one hundred eighty-four dollars and twenty cents (\$34,184.20).

12. The total sum of one hundred, sixty-eight thousand, seven hundred fifty-four dollars and twenty-four cents (\$168,754.24) was loaned to defendants by providing them with an American express card while defendants were residents of the County and State of New York.

13. Plaintiffs have paid this sum to the credit card company.

14. Defendants have repaid the total sum of thirty-three thousand, one hundred four dollars and twenty cents (\$33,184.20).

15. Defendants have acknowledged this indebtedness on numerous occasions. (Exhibit A.)

16. There is due and owing from the defendants to the plaintiffs the sum of one hundred, thirty-five thousand, five hundred seventy dollars and four cents (\$134,570.04), with interest from May 12, 2010.

FOR A THIRD CAUSE OF ACTION

17. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "17" above as if more fully set forth herein.

18. Plaintiffs obtained the money to make the loan to defendants by prematurely withdrawing from their IRA accounts.

19. As a consequence of defendants' failure and refusal to repay the loan in plaintiffs' first cause of action, plaintiffs have been caused to incur penalties and taxes on

the early withdrawal from their IRA accounts in the amount of eighty-two thousand, four hundred fifty-one dollars and eighty-three cents (\$82,451.83).

20. By reason of the foregoing, plaintiffs have been damaged in the amount of eighty-two thousand, four hundred fifty-one dollars and eighty-three cents (\$82,451.83).

WHEREFORE, Plaintiffs herein demand judgment on the first cause of action in the amount of one hundred, thirty-seven, five hundred dollars (\$137,500.00); on the second cause of action in the amount of one hundred, thirty-five thousand, five hundred seventy dollars and four cents (\$134,570.04); and on the third cause of action in the amount of eighty-two thousand, four hundred fifty-one dollars and eighty-three cents (\$82,451.83) together with other costs, disbursements, and interest from the date of occurrence.

Date: New York, New York
August 18, 2010

WCR C. ROBINSON & ASSOCIATES, LLC

By: W. Charles Robinson, Esq.
Attorneys for Plaintiff
820 Second Avenue, Suite 7B
New York, New York 10017
(212) 286-0423

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Index No.:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

ANDREW B. STROUD and SCARLETT P. STROUD,

Plain English

-against-

LISA S. KELLY and ROB KELLY,

Defendant(s):

VERIFIED COMPLAINT

C. ROBINSON & ASSOCIATES, L.L.C.

Attorney for Plaintiff

Diplomat Building
820 Second Avenue - Suite 7B
New York, New York 10017
(212) 286-0423

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX-----X
ANDREW B. STROUD and SCARLETT P. STROUD,

Plaintiff(s).

Index No.

Date purchased:

-against-

AFFIDAVIT OF
SERVICE

LISA S. KELLY and ROB KELLY.

Basis of Venue is:
Plaintiff's Residence

Defendant(s)

-----X

STATE OF NEW YORK)

)ss..

COUNTY OF NEW YORK)

I, Saundra Ortiz, being duly sworn, say I am not a party to the action, am over 18 years
of age and reside at New York, New York.

On _____, I served a copy of the within SUMMONS & VERIFIED COMPLAINT

Service by Mail by depositing a true copy thereof in a post-paid wrapper by REGULAR MAIL, in an official depository under the York State, addressed to each of the following person at the last known address set forth after each name:

Personal Service of Individual by delivering a true copy thereof personally to each person named below at the address indicated. I knew each person served to be the person mentioned and described in said papers as a party therein:

Service by by transmitting the papers by electronic means to the telephone number listed below, which number was designated Electronic by the attorney for such purpose. I received a signal from the equipment of the attorney served indicating that the Means transmission was received. I also deposited a true copy of the papers, enclosed in a post-paid wrapper, in an official depository under the care and custody of the U.S. Postal Service, addressed to the attorney at the address set forth after each name:

Overnight by depositing a true copy thereof, enclosed in a wrapper addressed as shown below, into the custody of FEDERAL EXPRESS for overnight delivery, prior to the latest time designated by that service for overnight delivery.

Sworn to before me this

____ day of August, 2010

Notary Public

Sandra Ortiz

W Charles Robinson

Sent: Sunday, December 12, 2004 11:43 PM
To: theygreatiam@att.net
Subject: Hi Pop

Hi Pop,

How is life in the sun? The weather absolutely stinks here and I know that Lisa can't wait to visit you and Scarlett some time after the holidays.

Lisa, the kids and I are doing well and look forward to the holiday season for a much needed break from the routine of our lives. (school, business, etc.).

Pop, the reason for this e-mail is that Lisa and I are up against a wall again financially with \$100 left in the bank since last week and Lisa, (understandably), is afraid to ask you for yet another loan after all that you have done for us and the estate. Pop, It is very hard for me to write this sort of e-mail but I had no choice being in such dire straits and if it is possible at all we will make sure that it will be the last time before we start to pay you back (which I will attempt to explain below). The reason for running out of money so soon is that Trevor upon receiving monies from you last month immediately paid the IRS most of what was sent to keep them at bay. We thought we had a little time left to pay but apparently we had to pay them something right away to avoid serious penalties and Trevor made a judgment call to pay it.

Pop, you have carried us through really rough times and we have been working frantically to put things in place to make money to pay you back, etc., and for what it's worth, things look good for the coming year. It's the next two months that we are worried about as we wait for finances from a few different endeavors kick in.

I just finished meetings with a New Zealand and US based company called Txtstation with whom I've worked in the past when they were formerly Hypertainment and the long and short of it is that we are negotiating a salary package for me to begin in February. They were in town for three days last week and I set up meetings with certain people they wanted to get to with very positive results. They are finally fully financed and their main investor, Fraser asked me to work with them as their New York based representative after some fancy footwork and (for what it's worth) high level introductions and business leads that I provided for them.

China we had expected to pop already and though it hasn't yet it's very close as all that is needed for Oracle to release the money for us is hinged on one document which we have to get signed by a guarantor. We seemed to have found a solution to that at the same time that Bobby Banks is coming through with his solution so Lisa and I have our fingers crossed. There several other major companies that are in the process of forming an alliance with us.

I will send either attachments or e-mail correspondence to update you.

The Daughters of Soul tour that we did last summer looks like it's going to pay off with promoters really starting to bite and negotiate shows and tours. I've been working with and soliciting for Sandra St. Victor who created the concept and I have been able to negotiate an 8,000 Euro per show fee for myself per concert over the 17,000 Euros per show that Sandra wanted. This is on top of what Lisa makes for the performance so combined it's a decent haul.

Lisa has decided to sell the LA apartment and of course the France property as soon as the crest is clear. She already has an agent in LA and George Stornbely, Chairman of Clearchannel Spectacolor is very interested in the France home as he has been looking for a suitable place to buy in the south of France. We seem to have figured out a way to pay ourselves out of the estate for establishing and working for the NS Foundation. If this pans out we will not only be able to pay you back as we already knew but we could also reimburse ourselves for everything we have done for the foundation to include salary, travel, the chiefs trip to the US and our trips to Ghana etc.

I know you're tired of reading by now.

Everyone from this side sends their best and we all hope to turn the corner very soon.

Lisa told me that you were not feeling well so I send best wishes for your continued good health.

Thanks Pop

Rob

W Charles Robinson

Sent: Monday, March 14, 2005 11:17 AM

To: andystroud@earthlink.net

Subject: Lisa And Rob: Updates

Hi Pop,

I hope you and Scarlett are enjoying the great weather that you must have in St. Thomas.

It's still cold on this side but we're beginning to see signs of spring.

Plans for the China release are looking very good. Lisa and I should be on our way to Beijing in two weeks for the office opening and meetings with investors etc. Bobby Banks called me and is trying to get back onboard. Shows are booking for "Daughters of Soul" but begin in early May and will be in places like Australia, New Zealand, Japan, etc., with multiple shows in each place. The May shows are going to be in Amsterdam and then onto places like Denmark, London and so on.

Aida Thomas Sciumacher is very excited about plans to take Aida to Beijing and then Shanghai. I spoke to him last September at the closing party for Aida about taking the show to China and finally I met with Ron Kollen today to move plans forward. They are very excited as they are trying very hard to get into the Chinese market. They are very impressed with our contacts there and might be flying over for the office opening as most of the people they will have to meet in order to make this happen. We will be co-producers of the show and it will launch Lisa in China as she will also star in it. The show that was on Broadway is now in Korea and we hope to get the set, props and lighting for our show in Beijing.

We just got a 10,000 seat stadium in Coney Island for a benefit concert for the foundation and a few other causes in September. The same one that Avon wants to sponsor but we now have a separate date free of charge less expenses and 4-10% for Reverend Mobley's Church. He has the rights to the stadium and he's doing a great job of helping to reinvent Coney Island. We meet today or tomorrow to view the stadium. More to tell you about that but I have to head out to these meetings.

The Gold deal is in its concluding stages and we hope to be finished with this initial sale in short order. With all of that said Pop we still have to ask you to please help us out financially again. It is always the hardest thing to ask but we know the tide is turning and we hope and pray to be able to start paying you back very, very soon. We really appreciate and remember everything that you have done and are doing for us. It will not be in vain. We will make you proud soon!!

Best wishes for a great rest of the year and beyond!!!

All the best

Rob

W Charles Robinson

Sent: Wednesday August 31, 2005 10:05 AM

To: andystroud@earthlink.net

Subject: Lisa here

Good morning !!!!

Hope this finds you both well...I spoke with our acct. Trevor, about the IRS receipt for your gift to NSF. There's a gentleman in the firm who's job it is to assess the value of items. I'm forwarding one of the copies you gave me to the office so that we can get the best amount before the receipt is issued. And you will have it prior to your departure.

This situation with my brothers has been on my mind. The only reason I've continued my attempts at having some kind of relationship is because I know it's what you want. In my heart, Daddy I can take them or leave them....it's difficult to build a healthy relationship with anyone if they're jealous, petty, judgmental, and have absolutely NO VISION. And to think, what we've been fighting they stand to benefit from, in the long run. Before I began asking you for help, I received the same treatment, and I'm tired of being on the receiving end of their misplaced comments. As for STT, I simply want them to leave me and mine alone! Hopefully we can all come together as a family and enjoy the time you and Scarlett have worked so hard to put together. My concern is that one of them is going to get a hair up their Johnson and I can guarantee you will lose it !!! I'm so sorry, Daddy to have put you in this position. It's NEVER been my intention to borrow this long, much less this much!! I've said it before and I'll say it again...I will pay you back EVERY DIME. I feel guilty enough, I don't need anyone rubbing it in.... Having said all that, I LOVE YOU and I'm so grateful for everything.

Lisa

VERIFICATION

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.

ANDREW B. STROUD, being duly sworn, deposes and says that deponent is the plaintiff in the within action; that he has read the foregoing Complaint and knows the contents thereof; that the same is true to the deponent's own knowledge, except as to the matter(s) therein stated to be alleged upon information and belief, and that as to those matters he believes them to be true.


Andrew B. Stroud

Andrew B. Stroud

Sworn to before me this
17th day of August, 2010

Ed. Ober
Notary Public

W. CHARLES ROBINSON
Notary Public - State of New York
No. 02R06114918
Qualified in New York County
Commission Expires August 23, 2008